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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/795,901  | 03/08/2004  | Paul Senn            | BCK-001.02          | 1538             |
| 207   | 7590        | 12/14/2006           | EXAMINER            |                  |
| WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP<br>TEN POST OFFICE SQUARE<br>BOSTON, MA 02109 |             |                      | RAMPURIA, SHARAD K  |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2617                |                  |

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/795,901             | SENN ET AL.         |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Sharad Rampuria        | 2617                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 September 2006.  
 2a) This action is **FINAL**.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-46 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-46 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 18 September 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

I. The Art Unit location of this application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

### ***Drawings***

II. The receipt of drawings filed on is accepted by examiner.

### ***Disposition of the claims***

III. The current office-action is in response to the amendments/remarks filed on 09/18/2006. Accordingly, Claim 46 is newly appended claims, thus, Claims 1-46 are imminent for further assessment as follows:

### ***Claim Rejections - 35 USC § 103***

IV. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Donovan et al. [US 6075982] in view of Castro [US 5440621].

As per claim 1, Donovan teaches:

A method (Abstract), comprising

Identifying an account balance associated with a request for a communications event, (Col.13; 41-56)

Associating a rate plan with the request, the rate plan being associated with at least two rates, (Col.12; 38-51) computing a rate schedule based on the rate plan, (Col.12; 38-51, Col.13; 11-25, 41-56, Table 7, 10) and,

Donovan fails to teach determining duration of the communications event by comparing the rate schedule to the account balance. However, Castro teaches in an analogous art, that determining a duration of the communications event by comparing the rate schedule to the account balance.

(Col.8; 7-28) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Castro including determining duration of the communications event by comparing the rate schedule to the account balance in order to provide an apparatus in the form of a telecommunication-time metering device or time-metered telecommunication device which is capable of reading prepurchased telecommunication-time data, and processing such data to

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reflect a decrease in telecommunication-time which is essentially equal to the time duration lapsed during each telecommunication connection.

As per claims 2, 19, 36 Donovan teaches:

A method according to claims 1, 18, 32 wherein associating a rate plan with the request includes associating at least one of: a connection charge rate and a tax charge rate. (Col.12; 1-5)

As per claims 3, 20, 37 Donovan teaches:

A method according to claims 1, 18, 36 wherein computing a rate schedule includes incorporating at least one of: an initial rate period, at least one fixed fee, available free time, and a cost per second for the communications event. (Col.13; 11-25)

As per claims 4, 22, 40, Donovan teaches:

A method according to claims 1, 18, 32 wherein the request includes an initiation of a telephone call. (Col.11; 47-53)

As per claims 5, 23, 41, Donovan teaches:

A method according to claims 1, 18, 32 wherein the request includes an initiation of a cellular telephone call. (Col.14; 18-26)

As per claims 6, 42-43, Donovan teaches:

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A method according to claims 1, 32 wherein identifying an account balance associated with the request includes at least one of: receiving an account code from a user, receiving an account code from a recipient, identifying a device receiving the communications event, and identifying a device initiating the communications event. (Col.13; 11-25, 41-56)

As per claims 7, 38-39, 44-45 Donovan teaches:

A method according to claims 1, 32 further comprising authorizing completion of the communications event for the determined duration. (Col.13; 11-25, 41-56, Table 7, 10)

As per claims 8, Donovan teaches:

A method according to claim 7, wherein authorizing completion of the communications event includes terminating a telephone calls at a switch. (Col.13; 26-35)

As per claims 9, Donovan teaches:

A method according to claim 7, wherein authorizing completion of the communications event includes terminating a cellular telephone calls at a cellular switch. (Col.14; 32-54)

As per claims 10, 35, Donovan teaches all the particulars of the claim except wherein comparing the rate schedule to the account balance includes determining a duration of the communications event for which an accrued cost of the communications event is approximately equal to the account balance. However, Castro teaches in an analogous art, that method according to claims

1, 32 wherein comparing the rate schedule to the account balance includes determining a duration of the communications event for which an accrued cost of the communications event is approximately equal to the account balance. (Col.8; 7-28)

As per claims 11, Donovan teaches:

A method according to claim 1, wherein computing a rate schedule includes incorporating at least one of: an initial rate period and fixed fees. (Col.13; 11-25, 41-56)

As per claims 12, Donovan teaches:

A method according to claim 1, wherein computing a rate schedule includes at least one of: computing endpoints of the communications event, determining a distance of the communications event, considering time of day of the communications event, and, considering day of week of the communications event. (Col.13; 11-25, 41-56)

As per claims 13, Donovan teaches:

A method according to claim 1, further comprising, monitoring the communications event for a rate schedule altering event, and computing an updated rate schedule upon determining the occurrence of the rate schedule altering event. (Col.13; 11-25, 41-56, Table 7, 10)

As per claim 14, Donovan teaches all the particulars of the claim except updating the account balance before the rate schedule-altering event, and computing an updated duration of the

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communications event by comparing the updated account balance and the updated rate schedule. However, Castro teaches in an analogous art, that a method according to claim 13, further comprising, updating the account balance before the rate schedule altering event, and computing an updated duration of the communications event by comparing the updated account balance and the updated rate schedule. (Col.8; 7-28)

As per claims 15, Donovan teaches:

A method according to claim 13, wherein monitoring the communications event includes determining that a number of parties to the communications event has changed. (Col.13; 11-25, 41-56, Table 7, 10)

As per claims 16, Donovan teaches:

A method according to claim 15, wherein determining that a number of parties to the communications event has changed, includes determining that a new party is added to the communications event. (Col.13; 11-25, 41-56, Table 7, 10)

As per claims 17, Donovan teaches:

A method according to claim 13, wherein monitoring the communications event includes determining a change in a communications event distance. (Col.13; 11-25, 41-56, Table 7, 10)

As per claim 18, Donovan teaches:

A system (Abstract), comprising

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at least one communications interface to receive information representative of a request to initiate a communications event, (Col.11; 47-53)

at least one database (110; Fig.2) to store:

information representative of rate plans for a plurality of communications service providers, each rate plan associated with at least two rates, (Col.12; 38-51) and

information associated with a plurality of accounts, (110; Fig.2) and

at least one processor coupled to the at least one database and the at least one communications interface, to identify an account balance associated with the request, to associate a rate plan with the request, to compute a rate schedule based on the at least two rates (Col.12; 38-51) from the associated rate plan, and

Donovan fails to teach, to compare the rate schedule to the account balance to determine a duration for which an accrued cost of the communications event is approximately equal to the account balance. However, Castro teaches in an analogous art, that, to compare the rate schedule to the account balance to determine duration for which an accrued cost of the communications event is approximately equal to the account balance. (Col.8; 7-28)

As per claim 32, Donovan teaches:

A method (Abstract), comprising

storing information representative of rate plans for at least two communications service providers, each of the rate plans having at least two rates, (Col.12; 38-51)

storing information associated with at least two user accounts, (Col.12; 38-51)

identifying a request to initiate the communications event, (Col.11; 47-53)

determining an account balance associated with the request, (Col.13; 11-25, 41-56, Table 7, 10)  
associating a rate plan with the request, (Col.13; 11-25, 41-56, Table 7, 10)  
computing a rate schedule based on the at least two rates of the associated rate plan, and  
Donovan fails to teach determining duration of the communications event by comparing the rate  
schedule to the account balance. However, Castro teaches in an analogous art, that determining a  
duration of the communications event by comparing the rate schedule to the account balance.  
(Col.8; 7-28)

**Claim 46** is the **computer readable medium** claim corresponding to **method** claim 1  
respectively, and rejected under the same rational set forth in connection with the rejection of  
claim 1 respectively, above.

***Response to Amendments & Remarks***

V. Applicant's arguments filed on 09/18/2006 have been fully considered but they are not  
persuasive.

***Relating to Claim 1:***

In comeback to Applicant's allegation that **the combination of Donovan and Castro**  
doesn't teach, "Associating a rate plan with the request, the rate plan being associated with at  
least two rates, computing a rate schedule based on the at least two rates, and, determining  
duration of the communications event by comparing the rate schedule to the account balance." it  
is noted that the Examiner respectfully emphasize that the cited art, is legally efficient for the

purpose of rendering claim unpatentable. In particular, **Donovan** supports the declaration as; the rate plan based on two rates for instance the two pre-paid parameters including location identifier to calculate the tax-charge and regular rate. (Please perceive Col.12; 38-51, Col.13; 11-25, 41-56, Table 7, 10), moreover, **Castro** supports the declaration as, the determination of the period of an occasion based on the time-metering device and also display the running balance of the time utilizing on-going communication (Please perceive Col.8; 7-28),

For that reason, **the combination of Donovan and Castro** provide such apparatus in the form of a telecommunication-time metering device or time-metered telecommunication device which is capable of reading prepurchased telecommunication-time data and recognize the account balance, and processing such data to reflect a decrease in telecommunication-time which is essentially equal to the time duration lapsed during each telecommunication connection within the associated telecommunication switching network which can easily read on the claimed invention, and at the same time as in support; “the examiner must give the broadest reasonable interpretation to all claims presented.” As stated in MPEP § 2111 - § 2111.01. Hence, it is believed that **the combination of Donovan and Castro still teaches the claimed limitations.**

The above arguments also recites for the claims 18, 32, consequently the response is the same explanation as set forth above with regard to claim 1.

Because the remaining claims depend directly/indirectly, from one of the independent claims discussed above, consequently the response is the same explanation as set forth above.

With the intention of that explanation, it is believed and as enlighten above, the refutation are sustained.

*Conclusion*

**VI. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

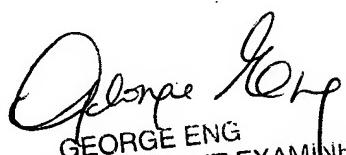
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F. (8:30-5 EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or [EBC@uspto.gov](mailto:EBC@uspto.gov).

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